IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARK J. PENTLAND,)
Plaintiff,) 2:18-CV-1408-DWA
VS.	
NANCY A. BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY,))
Defendant	,

AMBROSE, United States Senior District Judge

ORDER OF COURT

Plaintiff, Mark J. Pentland, commenced this action on October 22, 2018, by filing a Motion for Leave to Proceed *in forma pauperis*. [ECF No. 1]. This Court granted Plaintiff's Motion, and his Complaint was filed on October 23, 2018. [ECF Nos. 2, 4]. Plaintiff's Complaint seeks review of a decision by Defendant, the Acting Commissioner of Social Security, denying benefits under Title II of the Social Security Act. [ECF No. 4]. On November 14, 2018, Plaintiff's counsel, Jeffrey R. Wasak, entered his appearance. [ECF No. 5]. There is no indication on the docket that Plaintiff or his counsel requested the issuance of a summons or that a summons otherwise has been issued. Consequently, on April 2, 2019, I issued an Order notifying Plaintiff of the deficiency and directing him to show cause no later than April 23, 2019 why this case should not be dismissed for failure to serve. [ECF No. 6]. To date, Plaintiff has not responded to the show cause order.

As set forth in Federal Rule of Civil Procedure 4, a summons must be served with a copy of the complaint and the "plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m)." Fed. R. Civ. P. 4(c). Federal Rule of Civil Procedure 4(m) establishes a 90-day time limit for service of a summons and complaint. The Rule states that "[i]f a defendant is not served within 90 days after the complaint is filed, the court – on motion or on

its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m). Here, well over 90 days have passed since the Complaint was filed, and there still is no indication on the docket or otherwise that a summons was issued or that the Complaint and summons were ever served. Accordingly, in accordance with Rule 4(m), the following ORDER is entered:

AND NOW, this 13th day of May, 2019, it is hereby ORDERED that this case is DISMISSED WITHOUT PREJUDICE. The Clerk is directed to mark this case CLOSED.

BY THE COURT:

Donetta W. Ambrose

United States Senior District Judge